

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.3117 of 2017

Order:

This Writ Petition is filed challenging the action of the fourth respondent in initiating the proceedings in M.C.No.79 of 2016 on 17.12.2016, when a decree for permanent injunction was granted in favour of the petitioners in O.S.No.40 of 2011 on 29.02.2016 by the learned II Additional Senior Civil Judge, Nandyal.

Learned counsel for the petitioners submits that pursuant to the injunction granted in favour of the petitioners, the petitioners filed W.P.No.42322 of 2016, when the fifth respondent herein did not consider the representation of the petitioners for granting police aid. This Court, by order dated 15.12.2016, disposed of the said Writ Petition by directing the respondents 2 and 4 therein to consider the representation of the petitioners dated 28.11.2016 and pass orders in accordance with law. The grievance of the petitioners is that instead of considering the said representation and granting police aid, the police submitted a report to the fourth respondent who initiated proceedings under Section 145 of Cr.P.C on 17.12.2016.

Learned counsel appearing for the impleaded respondents submits that the impleaded respondents filed O.S.No.207 of 2016, wherein they obtained order of temporary injunction in I.A.No.1643 of 2016 on 23.11.2016 against the Writ Petitioners herein and, hence, they are entitled for protection. Learned counsel for the petitioners, on the other hand, submits that the petitioners filed a counter in the said application and the same is pending consideration.

In view of the decree of injunction already obtained by the petitioners and the application of the petitioners for vacating the temporary injunction obtained by the impleaded respondents, the fourth respondent should have waited for the orders of the civil Court instead of initiating proceedings under Section 145 Cr.P.C. It is well settled in law that when the matter is pending before the civil Court, no proceedings under Section 145 Cr.P.C., are maintainable. But, a perusal of the impugned order clearly shows that the fourth respondent has taken note of the pending civil proceedings initiated by the unofficial respondents and also the decree obtained by the petitioners and passed the order prohibiting the entry of persons till the issue is disposed of by the learned Junior Civil Judge, Banaganapalli.

In view of the said order, it is open to the parties, the petitioners and the unofficial respondents to obtain appropriate orders from the competent civil Court with regard to continuance of possession and the possession of the parties will be regulated accordingly. As and when the civil Court passes such an order, the fourth respondent shall take note of the same.

The Writ Petition is, accordingly, disposed of. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 03.04.2017
Nsr